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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 7379 of 2007
Date of decision: 16.5.2007

M/s K. L. Raj Kumar Jain **...Petitioner**

Versus

Central Bank of India and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Mohan Jain, Senior Advocate with
Mr. Dinesh Thakur and Mr. J.P.Sharma, Advocates
for the petitioner.

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RAJESH BINDAL, J.

The present petition has been filed seeking quashing of reply dated February 27, 2007 (Annexure P-4) of the Central Bank of India to the objections raised by the petitioner in response to the show cause notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act ').

Briefly, facts are that the petitioner, who is an exporter of readymade garments, availed of credit facility aggregating to Rs. 69 lacs from the bank, which were not paid back and accordingly the bank filed suit for recovery of the amount due from the petitioner. It is also alleged that the petitioner had filed a civil suit for claiming damages against the bank way back in 1994, which is still pending at the trial stage. Application filed by the bank before the Debt Recovery Tribunal, Chandigarh (for short, 'the DRT') was fixed for arguments on April 26, 2007 but the status thereafter is not evident. During the pendency of the proceedings before the DRT, the bank issued a notice dated January 12, 2007 under Section 13(2) of the Act raising a demand of Rs. 13,63,08,750/- and the petitioner was

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called upon to discharge the liability within 60 days failing which the bank was to take appropriate proceedings in terms of Section 13 of the Act. The notice was replied to by the petitioner by raising various objections, inter-alia, that the proceedings initiated by the bank for recovery of the amount before the DRT are pending, suit for damages filed by the petitioner is also pending and further that infact the petitioner is not at fault as it is the bank, who had failed to collect the dues against the documents submitted by the petitioner for collection. The contention raised by the petitioner were rejected by the bank while relying upon judgment of the Supreme Court in **Transcore Vs. Union of India and others 2007 (1) I.SJ. (Banking) 1** stating that even if a petition has been filed before the DRT for recovery of the amount due, the proceedings under the Act are not barred. Further allegations made by the petitioner raising factual disputes were also controverted.

We have heard Shri Mohan Jain, learned senior counsel for the petitioner and perused the paper book.

The primary contention raised by learned senior counsel is that the objections raised by the petitioner have not been considered by the bank strictly in terms of provisions of Section 13(3A) of the Act. No valid reasons have been given for rejection thereof and as the application/appeal before the DRT is maintainable only after invocation of Section 34 of the Act, the present petition to this Court, at this stage, is maintainable.

We do not find any merit in the contention raised by learned counsel for the petitioner. As far as invocation of the provisions of the Act during the pendency of application by the bank before the DRT is concerned, Hon'ble Supreme Court in Transcore's case (supra) has held that there is no such bar. Accordingly, pendency of application by the bank before DRT does not cut any ice to enable the petitioner to make out his case. As far as the issue regarding non consideration of the objections raised by the petitioner to the notice under Section 13(2) of the Act is concerned, we find that even this contention is without merit. The bank, though, has not dealt with the objections raised by the petitioner by passing an order like a judicial authority, however, still a perusal thereof shows that

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reasons for non acceptance of objections raised by the petitioner in each para of his petition have been specifically dealt with and controverted by the bank in corresponding paras of its reply to the petition. The issues raised by the petitioner in the objections are primarily factual, which cannot be gone into in a writ jurisdiction. As far as legal objection regarding invocation of jurisdiction during the pendency of application before the DRT is concerned, the same has already been decided against the petitioner in Transcore's case (supra). No other issue has been raised or argued.

In view of the above, we do not find any merit in the present petition and accordingly dismiss the same in limine.

(Rajesh Bindal)
Judge

May 16, 2007 **(M.M.Kumar)**
Pka **Judge**